

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

Terrell Nelson, #310610,

Plaintiff,

vs.

Capt. Laskey; Lt. Myers; Lt. Bryzenski; Cpl.
Salazar; Deputy Warden Palmer; Nurse
Samantha Burdette; Warden Anthony
Burton; and Lieutenant McCurry,

Defendants.

Civil Action No. 5:23-cv-1754-CMC

ORDER

This matter is before the court on Plaintiff's Complaint, alleging violations of his constitutional rights against use of excessive force and failure to provide adequate medical attention. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), D.S.C., the matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial proceedings.

Defendants filed a motion for summary judgment on October 17, 2023. ECF No. 47. The same day, the court issued a *Roseboro* order providing an explanation of summary judgment procedures and directing Plaintiff to respond to the motion. ECF No. 48. Plaintiff filed a response in opposition. ECF No. 51. Defendants filed a reply. ECF No. 52. On July 12, 2024, the Magistrate Judge issued a Report and Recommendation ("Report") recommending Defendant's motion for summary judgment be granted. ECF No. 58. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do so. No party has filed objections, and the time to do so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After a review of the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error, and agrees the motion for summary judgment should be granted. Accordingly, the court adopts the Report by reference in this Order.

Defendant's motion for summary judgment (ECF No. 47) is granted, and this matter is dismissed with prejudice.¹

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
August 5, 2024

¹ Pursuant to the recommendation of the Magistrate Judge, the court denies Defendants' motion to count this case as a strike under the Prison Litigation Reform Act, as Plaintiff's claims were not filed frivolously.